

From: Ulysses T. Ware

To: The Office of the District Clerk (SDNY)

Date: July 11, 2021

RE: Filing the enclosed pleadings on the 04cr1224 (SDNY) and 05cr1115 (SDNY) dockets.

Please file the enclosed **pleading** and please properly and correctly identify the enclosed as a pleading rather than a “letter”:

**Re: Ulysses T. Ware’s July 11, 2021, Supplemental Memorandum of Law #1.0 to  
Rule 33 Motion for a New Trial (Dkt. 263) (#39)**

**Relief requested by July 14, 2021, at 12:00 noon.**

on the applicable dockets.

/s/ Ulysses T. Ware

**Case Nos. 04cr1224 (SDNY) and 05cr1115 (SDNY) (#36)**

Submitted on July 11, 2021, by email to: Temporary\_Pro\_Se\_Filing@nysd.uscourts.gov

/s/ Ulysses T. Ware

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Ulysses T. Ware, individually, and as  
the legal representative for the estate  
of third-party surety Mary S. Ware.  
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**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

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**United States of America, et al.,  
Plaintiff, Petitioner,  
Cross Respondent,**

**v.**

**Ulysses T. Ware, et al.,  
Defendant, Respondent,  
And Cross Petitioner.**

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**Ulysses T. Ware's July 11, 2021, Supplemental Memorandum of Law #1.0 to  
Rule 33 Motion for a New Trial (Dkt. 263) (#39)**

**Relief requested by July 14, 2021, at 12:00 noon.**

**Certificate of Service**

**I Ulysses T. Ware certify that I have this 11th day of July 2021 served the persons listed below with a  
copy of this pleading:**

AUSA Jeffrey R. Ragsdale, Counsel DOJ's Office of Professional Responsibility  
AUSA Melissa Childs, AUSA John M. McEnany, Acting USA Audrey Strauss  
USAG The Hon. Merrick Garland

**Supplemental Memorandum of Law #1.0 to  
Rule 33 Motion for a New Trial (Dkt. 263) (#39).**

**I.**

**A. Governing Legal Principles: The Legal Standards.**

“Brady requires that the government disclose material evidence favorable<sup>1</sup> to a criminal defendant.” *United States v. Mahaffy*, 693 F.3d 113, 127 (2d Cir. 2012) (citation omitted).

“Evidence is favorable if it is either exculpatory or impeaching, ... and it is material if ‘there is a reasonable probability that, had the evidence been disclosed to the defense, the result of the proceeding would have been different.’” *Id.*<sup>2</sup> (citations omitted). “[T]he adjective [reasonable] is important.” *Kyles v. Whitley*, 514 U.S. 419, 434 (1995). “[A] showing of materiality does not require demonstration by a preponderance that disclosure of the suppressed evidence would have resulted ultimately in the defendant’s acquittal.” *Id.*; accord *Mahaffy*, 693 F.3d at 127. Nor

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<sup>1</sup> In both *United State v. Ware*, 04cr1224 (August 10, 2007, Dkt. 32 at page 2)( Sweet, J.) and in *Id.*, 05cr1115 (SDNY) (May 19, 2006, Dkt. 17, Tr. 5-9) (Pauley, J.), (the “**Brady Orders**”), the Government was **ordered** to disclose all Brady evidence “prior to trial.” Specific written Brady court orders were willfully, in bad faith, intentionally, and deliberately disobeyed and are currently being actively resisted by the Government’s lawyers (Acting USA Audrey Strauss, AUSAs Melissa Childs and John M. McEnany) and agents to deprive Mr. Ware of a fair trial as an intentional criminal overt act in furtherance of the retaliatory Jim Crow racially-motivated hate crime RICO money laundering and obstruction of justice conspiracy, (the “**Jim Crow Conspiracy**”), that involved as indirect and/or direct knowing and willful participants **UNINDICTED CO-CONSPIRATORS** District Judges Robert W. Sweet (**deceased**), William H. Pauley, III (**deceased**), Leonard B. Sand (**deceased**), and Barbara S. Jones; **Circuit Judges** Peter W. Hall, Robert D. Sack, Amalya L. Kearse, Robert A. Katzmann (**deceased**); and Judges Colleen McMahon, Andrew J. Peck, Michael H. Dolinger, Kent J. Dawson, Thomas W. Thrash, Jr., Margaret H. Murphy, Joyce Bihary, C. Ray Mullins, Wendy L. Hagenau, Gerald B. Tjoflat, Stanley Marcus, Charles R. Wilson, Adelburto Jordan, Loretta Preska, Linda T. Walker, Orinda D. Evans, Gerrilyn G. Brill, and Clayton Scofield; **Government prosecutors** employed by the USAO; and **SEC lawyers** Jeffrey B. Norris, Spencer C. Barasch, John C. Martin, Stephen Webster, Robert Hannan, Steven Korotash, William Smith-Grieg, Joan E. McKown, and others.

<sup>2</sup> See Dkt. 273, 274, and 275 (05cr1115) for undisclosed and deliberately concealed and suppressed material Brady exculpatory evidence withheld by the Government’s lawyers.

is materiality a sufficiency of the evidence test—“[a] defendant need not demonstrate that after discounting the inculpatory evidence in light of the undisclosed evidence, there would not have been enough left to convict.” *Kyles*, 514 U.S. at 434-35. Instead, “**a conviction must be reversed ‘upon a showing that the favorable evidence could reasonably be taken to put the whole case in such a different light as to undermine confidence in the verdict.’**” *Mahaffy*, 693 F.3d at 127; accord *Kyles*, 514 U.S. at 434. (emphasis added).<sup>3</sup>

When “deciding whether to grant a motion for a new trial,” unlike when deciding a Rule 29 motion, “the judge is not required to review the evidence in the light most favorable to the prosecution.” *United States v. Walker*, 289 F. Supp. 3d 560, 567 (S.D.N.Y. 2018). “**The prosecution**, which alone can know what is undisclosed, must be assigned the consequent responsibility to gauge **the likely net effect of all such evidence** and make disclosure when the point of ‘reasonable probability’ is reached. This in turn means **that the individual prosecutor has a duty to learn of any favorable evidence known to the others acting on the government’s behalf in the case, including the police.**” *Kyles*, 514 U.S. at 437. (emphasis added).

The prosecutor’s good or bad faith is irrelevant: “the prosecution’s responsibility for failing to disclose known, favorable evidence rising to a material level of importance is

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<sup>3</sup> See Dkt. 273: the intentionally and willfully suppressed and concealed favorable SEC Brady Email that “put the case in a different light.” Had the 05cr1115 grand jury and trial juries been presented with Dkt. 273 and the suppressed and concealed favorable testimony of the five (5) Caucasian SEC lawyers involved in its Las Vegas 03-0831 D. NV pre-textual litigation there is no possibility that a reasonable and rational **all-white jury** would have voted to convict Mr. Ware on fabricated conspiracy charges. The SEC and the Government’s lawyers and Judges Pauley and Dawson would have been exposed for their illegal collusion and conspiracy to frame Mr. Ware in furtherance of the criminal objectives of the Jim Crow Conspiracy.

inescapable.” Id. at 438. “This Case means, naturally, that ... ‘[t]he prudent prosecutor will resolve doubtful questions in favor of disclosure.’ This is as it should be.” Id. at 439 (citation omitted). Doing so “will tend to preserve the criminal trial, as distinct from the prosecutor’s private deliberations, as the chosen forum for ascertaining the truth<sup>4</sup> about criminal accusations.” Id. at 440 (citations omitted).

The materiality of suppressed evidence is “considered collectively, not item-by-item.” Id. at 436.<sup>5</sup> “[T]he government cannot satisfy its Brady obligation to disclose exculpatory evidence by making some evidence available and claiming the rest would be cumulative.” *Carriger v. Stewart*, 132 F.3d 463, 481 (9th Cir. 1997) (en banc). Nor can the government rely on late disclosures during trial, or mid-trial ad hoc remedies for such disclosures, to excuse suppression.

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<sup>4</sup> The “truth” regarding 04cr1224 and 05cr1115 proceedings is that the USAO’s and SEC’s lawyers, and the Unindicted Co-conspirators all have been and currently are active participants in the international Hobbs Act money laundering criminal conspiracy run by NYC based LH Financial Services and **unregistered investment adviser** and **unregistered broker-dealer** Ari Rabinowitz (i.e., government trial witness in 04cr1224). The Unindicted Co-conspirators have all knowingly and willfully aided, abetted, assisted, and facilitated using the processes of the federal courts the laundering of billions of dollars in profits and proceeds generated by LH Financial Services and **unregistered broker-dealer** Alpha Capital, AG (Anstalt), see Exhibit #1 attached hereto.

<sup>5</sup> Taking the cumulative effects of Dkt. 273, 274, and 275 jointly there is no doubt that the outcome of the trial would have been different had the jury been permitted to hear the evidence. Which is the exact reason the Government’s lawyers deliberately and in bad faith colluded and conspired and suppressed the evidence. The means and illegal and unconstitutional methods to obtain a false and bogus conviction and sentence of Mr. Ware in retaliation against Mr. Ware for his refusal to not criminally violate the federal securities laws and sign and issue fraudulent and bogus Rule 144(k) legal opinions to Judge Leonard B. Sand’s clients, the 02cv2219 (SDNY) plaintiffs, judicially admitted and confessed 15 USC 77b(a)(11) **statutory underwriters** and **unregistered broker-dealers** legally ineligible for any Rule 144(k) or other exemption to the strict-liability registration requirements of Section 5 of the 1933 Securities Act. Cf., **SEC Release 33-7190 n. 17** (1995); see also *Berckelely*, 455 F.3d at 220 (same) (Section 2(a)(11) statutory underwriters **required to register with the SEC all distribution [public offering] of securities** pursuant to Section 5). (emphasis added).

See *United States v. Thomas*, 981 F. Supp. 2d 229, 239-40 (S.D.N.Y. 2013). Collective analysis requires assessing the effect of the entire iceberg, not merely the tip disclosed at trial. Collectively, the undisclosed evidence is material under Brady if “there is ‘any reasonable likelihood’ it could have ‘affected the judgment of the jury.’” *Wearry v. Cain*, 136 S. Ct. 1002, 1006 (2016) (quoting *Giglio v. United States*, 405 U.S. 150, 154 (1972), and *Napue v. Illinois*, 360 U.S. 264, 271 (1959)).<sup>6</sup>

Furthermore, the Government commits a Brady violation when it fails to disclose the crimes committed by one of its witnesses. *Crivens v. Roth*, 172 F.3d 991 (7<sup>th</sup> Cir. 1999)<sup>7</sup>, see n. 7, 8, *infra* for Zitter’s suborned perjurious testimony in 04cr1224 (SDNY) regarding his crimes in conspiracy with District Judge Leonard B. Sand (SDNY) (deceased).<sup>8</sup> Moreover, the government

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<sup>6</sup> See Exhibit #1 attached hereto.

<sup>7</sup> At trial in 04cr1224 under brutal cross-examination by Mr. Ware, government witnesses Ari Rabinowitz, Tr. 182-250, and Kenneth A. Zitter, Esq., both admitted and confessed to multiple criminal violations of the federal securities laws, Sections 5, 77x, and 78ff, regarding the unregistered sale of IVG and GPMT’s securities and other victims.

<sup>8</sup> At trial in 1224 Zitter, testified under brutal and devastating cross-examination by Mr. Ware as follows, to wit:

1. that he did not heed Ware’s advice and proceeded to taking additional steps to conduct the illegal distribution of IVG/GPMT securities, including having Ware illegally arrested and kidnapped on September 1, 2004, GX-34 (Tr. 360-61); GX-35 (Tr. 363); GX-251 (Tr. 343);
2. Tr. 371 (Zitter admits Ware’s [09/01/2004 Atlanta, GA] arrest was illegal);
3. Tr. 466 (Zitter stated “his motion to punish [threats of violence on Mr. Ware] for contempt.”);
4. **Tr. 468 (Zitter stated: “I know we [he and Judge Sand] took further action ... [b]ut we did take further actions to punish you [Ware] for contempt because there were different ....”);**
5. Tr. 456 (Zitter testified that his steps were taken to compel (extort) GPMT by holding Ware in contempt of court.
6. Zitter testified at Tr. 457 of his steps in furtherance of the illegal [criminal] distribution of IVG/GPMT securities as follows:  
Mr. Ware: What were those steps?

must adequately respond to a defendant's Brady request. *Id.* at 997 (Cf., Dkt. 283 and 284: Mr. Ware's Brady requests to purported "Criminal Evidence Coordinator" AUSA John M. McEnany, Esq. (SDNY)). Mr. McEnany has refused to respond regarding Mr. Ware's Brady requests, even having full knowledge of the Brady Orders entered in 04cr1224 (Dkt. 32) and 05cr1115 (Dkt. 17).<sup>9</sup>

In sum, a Brady violation has three components: (1) the evidence must be favorable to the accused<sup>10</sup>, (2) the government must have suppressed it, and (3) it must be material. See *Strickler v. Greene*, 527 U.S. 263, 281-82 (1999); accord *United States v. Rivas*, 377 F.3d 195, 199 (2d Cir. 2004); *United States v. Coppa*, 267 F.3d 132, 140 (2d Cir. 2001).<sup>11</sup>

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Zitter: We [Judge Sand and the four plaintiffs] attempted to compel [extort] you [Mr. Ware] to issue the [GPMT free-trading] stock [in **criminal** violation of Section 4(1) and Sections 5, 77x, and 78ff].

Mr. Ware: How did you attempt to compel [extort] Mr. Ware to issue the stock?

**Zitter: By applying to [Judge Sand] to hold you in civil contempt [kidnapping] if you [Mr. Ware] didn't do so.**

<sup>9</sup> "Neither party disputes that this impeachment information would have been favorable to Crivens. The state, however, argues that no violation occurred because it did not suppress or withhold this information *deliberately* and, therefore, should not be found to have violated the first aspect of the *Brady* test. We disagree. The state failed to respond adequately to Crivens' request."

<sup>10</sup> The Government's lawyers conspired and did knowingly, willfully, and in bad faith concealed and suppressed numerous items of material Brady exculpatory evidence ordered to be disclosed "prior to trial." See Dkt 273, 274, and 275.

<sup>11</sup> Dkt. 273, 274, and 275 have been suppressed to this day. The Government has never disclosed the Brady evidence regarding the 05cr1115 and 04cr1224 proceedings; the evidence was clearly favorable to Mr. Ware's litigation position there was not conspiracy and there was no securities fraud (1115); and there was no legal requirement to issue Rule 144(k) legal opinions to Section 2(a)(11) statutory underwriters (1224); and the evidence was without any doubt material. Which is why the Government's lawyers in bad faith and deliberately suppressed any evidence that undermined or impeached its risible and bogus trial theory.

Under Rule 16(a), the government has a legal duty and obligation to disclose, on request, "any relevant written or recorded statements made by the defendant ... within the possession, custody, or control of the government, the existence of which is known, or by the exercise of due diligence may become known, to the attorney for the government." Fed. R. Crim. P. 16(a)(1)(A).<sup>12</sup> Statements covered by Rule 16(a)(1)(A) include written correspondence to third persons that come into the possession of the government.<sup>13</sup> See **United States v. Caldwell**, 543 F.2d 1333, 1352-53 (D.C.Cir.1974), *cert. denied*, 423 U.S. 1087, 96 S.Ct. 877, 47 L.Ed.2d 97 (1976); **United States v. Bailleaux**, 685 F.2d 1105, 1113 (9th Cir.1982) (custody requirement satisfied when tape was in possession of FBI). The Rule imposes no disclosure obligation, however, when the evidence is in the hands of a person who is not a government agent, and the government has no reason to suspect that the evidence exists. See, e.g., **Thor v. United States**, 574 F.2d 215, 220-21 (5th Cir.1978) (federal government did not violate 16(a) when evidence was in the control of local police).

The duty of disclosure created by Rule 16(a) continues throughout the trial, so that "[i]f, prior to or during trial, a party discovers additional evidence or material previously requested or

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<sup>12</sup> The USAO's lawyers had a Rule 16 duty to disclose all statements of alleged co-defendant Jeremy Jones made to the Securities and Exchange Comm'n, (the "**SEC**"), that were favorable (exculpatory) to Mr. Ware. Jones and the Government's 05cr1115 trial witnesses, Carlton Epps, Myron Williams, Elrico Sadler, and Charles H. Jackson, (the "**Employees**") all made statements to the that SEC, that were "believed by the Comm'n" (quoting disgraced former SEC lawyer Jeffrey B. Norris in an official SEC email sent to Jones before trial in 05cr1115 that informed Jones that " ... the reason you and the [E]mployees were not added to the Comm'n's Las Vegas lawsuit is that we believed your deposition testimony that you were not involved in any conspiracy with Mr. Ware and would not have gotten involved had you known about it ....") (emphasis added), (the "**SEC Brady Email**").

<sup>13</sup> See Exhibit #1-16, Rule 16 violation by the Government (04cr1224).



ordered, which is subject to discovery or inspection under this rule, such party shall promptly notify the other party or that other party's attorney or the court of the existence of the additional evidence or material." Fed R. Crim. P. 16(c); *see also United States v. Stevens*, 985 F.2d 1175, 1180 (2d Cir.1993). The "duty of `prompt notification'" is satisfied if the prosecutor tells the defendant about the statement as soon as the prosecutor becomes aware of it. *United States v. Ferrer-Cruz*, 899 F.2d 135, 140 (1st Cir.1990). If the government has failed to meet its obligations under Rule 16(a)(1)(A), a new trial will be required only if the defendant can show "*that the failure to disclose caused him substantial prejudice.*" *United States v. Stevens*, 985 F.2d at 1181. (emphasis added).<sup>14</sup>

## B. Conclusion.

The Petitioner has presented overwhelming proof of willful and deliberate Brady and Rule 16 violations by the Government's lawyers in both 04cr1224 and 05cr1115. Material Brady and Rule 16 evidence was in bad faith and in willful violation of the Brady Orders suppressed by the Government's lawyers as overt acts in furtherance of the RICO Hobbs Act conspiracy to obstruct

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<sup>14</sup> Mr. Ware was substantially prejudiced by the USAO, and SEC's lawyers deliberate and willful and bad faith concealment and suppression of the SEC Brady Email that was required to have been disclosed "prior to trial" as ordered by the May 19, 2006, Dkt. 17, Tr. 5-6, Brady order (Pauley, J.) (05cr1115). Had Mr. Ware been allowed access to the **SEC Brady Email** all of the government's trial witnesses would have been impeached and discredited with their prior statements made to the SEC under oath. Moreover, all of the SEC's lawyers involved in the illegal and commingled Las Vegas (03-0831 D. NV) litigation if Mr. Ware would have not been denied his Sixth Amendment constitutional right to compel and confront them by District Judge Pauley's Jan. 6, 2007, Dkt. 35, order (05cr1115), with the reason the Employees were not added to the Las Vegas litigation, the trial jury would have had two conflicting views of the Government's trial theory of whether or not there was a conspiracy between Mr. Ware and the Employees; and the all-white trial jury is likely to have believed the five Caucasian SEC lawyers' version of events over the perjured and fabricated version suborned by the Government's lawyer advanced by the five black Government witnesses.

justice and launder the criminal profits and proceeds derived from the conspiracy to commit securities fraud being concealed by the SEC and USAO (SDNY)'s executive management and leadership teams. (See Exhibit ##1-1 to 1-8).

LH Financial Services and Alpha Capital, AG (Anstalt) are criminal enterprises<sup>15</sup> that the Government's lawyers were well aware of and actively aided, abetted, assisted, and facilitated the Hobbs Act extortion of small publicly-traded companies, and the laundering of the profits and proceeds derived from the criminal extortion conspiracy operated, directly or indirectly, by LH Financial Services, Ari Rabinowitz, Kenneth A. Zitter, Esq., convicted felon Edward M. Grushko, Esq., William H. Pauley, III, Leonard B. Sand, Robert W. Sweet, Colleen McMahon, David N. Kelley, Alexander H. Southwell, Steve R. Peikin, Robert A. Katzmman, Peter W. Hall, Barbara S. Jones, Michael J. Garcia, Joon Kim, Preet Bharara, Audrey Strauss, John M. McEnany, Melissa Childs, Maria E. Douvas, Sarah E. Paul, Katherine Polk-Failla, Steven D. Feldman, Andrew L. Fish, Amalya L. Kearse, Robert D. Sack, Andrew J. Peck, Michael H. Dolinger, Michael F. Bachner, Ari Kluger, Kilpatrick, Townsend, & Stockton, LLP, Nicholas S. Goldin, Joan E. McKown, Thomas W. Thrash, Jr., Gerald B. Tjoflat, Margaret H. Murphy, C. Ray Mullins, M. Regina Thomas, Patricia Sinback, Joyce Bihary, Kent J. Dawson, and others known and unknown.

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<sup>15</sup> See Exhibit #1-18: April 21, 2021, FINRA email that confirmed the **unregistered broker-dealer status** of Alpha Capital, AG (Anstalt). Material Brady exculpatory evidence suppressed by the Government's lawyers that would have changed the outcome of the 04cr1224 (SDNY) proceedings: there would have been no indictment of Mr. Ware had the Government's lawyers not deliberately suppressed the unregistered broker-dealer and Section 2(a)(11) statutory underwriter status of the 02cv2219 (SDNY) plaintiffs; Cf., **SEC Release 33-7190 n. 17** (1995) (Section 2(a)(11) statutory underwriters **required to register pursuant to Section 5** with the SEC all distribution of securities). (emphasis added)

The willfully and deliberately suppressed Brady and Rule 16 evidence was material to the defense's trial theory and issue of Government fraud and prosecutorial and judicial corruption. Material to the defense trial theory there was no "offense" (required by 18 USC 3231) committed as charged in the Government's bogus and fraudulent indictments. Material to the impeachment and undermining of the Government's trial witnesses' suborned perjury and fabrication of grand jury and trial evidence. Material to establish the egregious and bad faith judicial misconduct committed by District Judges William H. Pauley, III, Leonard B. Sand, and Robert W. Sweet in furtherance of the criminal objectives of the Hobbs Act RICO obstruction of justice and money laundering conspiracy's participants' and profits and proceeds protection.

**C. Requested relief.**

Petitioner is respectfully requesting the Court enter an Order directed to the Government's lawyers to file a written response in opposition to the claims and arguments presented in Dkt. 263 (Rule 33 motion for a new trial) no later than **July 14, 2021, at 12:00 noon**, and serve a copy of the same of the Petitioner at email address: [utware007@gmail.com](mailto:utware007@gmail.com).

Else if no written response is filed in opposition to Dkt. 263 by **July 14, 2021 at 12:00 noon**, by the Government, the Court will consider and deem the Government consents to the Court granting the Petitioner a new trial in 04cr1224 and 05cr1115 (SDNY); and the Court will reverse and vacate the conviction and sentence entered in both 04cr1224 and 05cr1115 (SDNY); and additionally, the Court will **sua sponte**, pursuant to its supervisory powers, annul and dismiss the

04cr1224 and 05cr1115 (SDNY) indictments with prejudice for prosecutorial misconduct; and order additional fact-finding and additional relief dependent on the fact-finding.

Respectfully submitted by:

/s/ Ulysses T. Ware

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Ulysses T. Ware (pro se)

July 11, 2021

## Exhibit #1-1

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## Death of N.Y. Jewish Millionaire — Murder or Suicide?

By **Natasha Mozgovaya (Haaretz)**

Published June 21, 2010.

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The mysterious death of an Orthodox Jewish millionaire on June 9 in New York has sparked a whirlwind of rumors, even though the medical examiner ruled the death a suicide.

Solomon (Shlomo) Obstfeld fell to his death from the 19th floor of his posh Manhattan apartment, and while New York police have yet to close the case, Obstfeld's family members and close friends believe he was murdered and have hired a private investigator to look into his death.

A friend of the Obstfeld family told Haaretz on Sunday that Obstfeld, 55, was murdered as the result of a conflict with an Israeli rabbi who had cast a "pulsa denura" death curse on Obstfeld.

According to the police investigation, no ladder or chair was found near the spot from which Obstfeld plunged to his death, a fact that bolsters the family's belief that he was murdered.

At this point, however, it does not appear that police are taking the family's suspicions seriously.

Many in New York's Jewish community are wondering whether a devout Orthodox father of five would take his own life.

"Suicide is not a common act by an Orthodox person – it is forbidden in Judaism," a friend of the Obstfeld family told Haaretz. "He was a very happy and successful man, who contributed to the community. There were no signs that he suffered from depression. On the contrary, he did not leave a note, will, letter or any other sign of suicide. If he had committed suicide, he certainly would have left something behind."

According to his associates, Obstfeld had several regular business chats in the hours before his death, including a long telephone conversation with a business colleague and had recently three luxury apartments up for sale for a combined 6.5 million dollars.

A person close to Obstfeld said he had complained of an Israel rabbi living in the United States to whom he had rented an apartment at a below-market price. The rabbi allegedly did not pay the rent over a long period of time and this led to a serious feud between him and Obstfeld.

After Obstfeld evicted the rabbi, the rabbi allegedly told friends that he had cast a "pulsa dinura" death curse on Obstfeld.

A friend of Obstfeld claimed that the rabbi returned to Israel around the time of Obstfeld's death.

"We spoke with Obstfeld a lot recently, and despite the fact that the rent dispute disturbed him, he did not seem depressed and it did not seem like he had problems," Obstfeld's friend said. "He had many plans, he was young, he had a good family and good business. I have no doubt that these men [the rabbi and his associates] were behind this and I could be next in line, because they have no inhibitions."

The New York Daily News reported that Obstfeld was connected with former Israeli prime ministers Ariel Sharon and Ehud Olmert and also had ties with Austrian businessman Martin Schlaff, who attended Obstfeld's funeral.

Israeli police suspect Schlaff of having bribed Sharon and want to question him.

It has also been reported that Olmert visited Obstfeld's office two weeks before Obstfeld's death.



## Exhibit #1-2

1224

The Alpha Capital scam is estimated to have fleeced the public of more than \$3-4 billion (US Dollars). Ari Rabinowitz testified for the Government in 1224(RWS) at Tr. 206 (Ex. #5) under cross-examination by Ware as follows:

Q: Approximately how many companies have you assisted Alpha Capital with, let's say the last 5 years?

A: A good few hundred.

Q: A good few hundred?

A: Yes.

Rabinowitz further testified, Tr. 217-19, as follows:

Q: Did you on behalf of Alpha Capital invest in a company by the name Cybernaut?

A: Yes.

Q: How much did you invest in Cybernaut?

A: A few million over a few years.

Q: How much did you make on this investment?

A: We made alot of money. I don't remember.

Q: How much is alot?

A: Maybe \$10 million.

Q: So you made \$10 million on a [few] million investment?

A: Give or take.

Q: Now, when you started investing in [Cybernaut] wasn't the stock trading over \$9 and went to 42 cents a share [after you and Alpha Capital shorted the stock]?

\* \* \*

Taking Rabinowitz' testimony at Tr. 206, "a good few hundred" companies he and Alpha Capital AG invested in, with the amount of money Rabinowitz admitted to making on Cybernaut, Tr. 218-19, "[m]aybe \$10 million," the Badian Gang's insider-trading scam has criminally profited by: (300-400 companies) multiplied by (\$10,000,000) equals \$3-4 billion (US Dollars) in ill-gotten gain: a continuing criminal financial enterprise operated from within the U.S. Courthouse at 500 Pearl St, New York, NY, and One St. Andrews Plaza, New York, by Art. III judicial officers and DOJ Officials and staff.

U.S. v. Ware, 04-CR-1224(RWS) and 05-CR-1115(WHP) were both brought by officials of the DOJ and SEC involved in the billion dollar insider-trading scam to protect the ill-gotten profits of the criminal enterprise,

## Exhibit #1-3

## Kenneth A. Zitter (Attorney)

No tags have been applied so far. Sign in to add some.

Profile Clients (24) Dockets (29) Patent Assignments (0) Trademark Assignments (0) Reviews (0)

Kenneth A. Zitter has been involved in the following cases:

Date Filed	Case Number	Title	Client	Role
7/14/2015	1:15-cv-05443	Alpha Capital Anstalt v. Oxysure Systems, Inc. et al	Alpha Capital Anstalt	Plaintiff
6/1/2015		Westminster Securities Corporation v. Uranium Energy Corpor...	Westminster Securities Corporation	Plaintiff
6/1/2015		Westminster Securities Corporation v. Uranium Energy Corpor...	MD David R. Holbrooke	Consolidated Pla
6/1/2015		Westminster Securities Corporation v. Uranium Energy Corpor...	AWM Holding, L.L.C.	Consolidated Pla
6/1/2015		Westminster Securities Corporation v. Uranium Energy Corpor...	John O'Shea	Consolidated Pla
2/19/2015	1:15-cv-01197	Brio Capital Master Fund, Ltd. v. Real Goods Solar, Inc. et ...	Brio Capital Master Fund, Ltd.	Plaintiff
1/28/2015	1:15-cv-00615	Alpha Capital Anstalt v. Real Goods Solar, Inc. et al	Alpha Capital Anstalt	Plaintiff
12/15/2014	1:14-cv-09878	Smithline et al v. Real Goods Solar Inc. et al	Alpha Capital Anstalt	Consolidated Pla
12/15/2014	1:14-cv-09878	Smithline et al v. Real Goods Solar Inc. et al	Brio Capital Master Fund, Ltd.	Consolidated Pla
9/15/2011	1:11-cv-06458	Alpha Capital Anstalt v. Advanced Cell Technology, Inc.	Alpha Capital Anstalt	Plaintiff
12/21/2010	1:10-cv-09490	Whalehaven Capital Fund, Ltd. et al v. Radiant Pharmaceutica...	Whalehaven Capital Fund, Ltd.	Plaintiff
11/12/2010	5:10-cv-01218-D	Alpha Capital Anstalt v. Ness Energy International Inc et al	Alpha Capital Anstalt	Plaintiff
9/30/2010	7:10-cv-07493	Szymczak v. Nissan North America Inc.,	Mr. David Russell	ADR Provider
9/30/2010	7:10-cv-07493	Szymczak v. Nissan North America Inc.,	Mr. Jay Domenic	Objector
1/23/2009	1:09-cv-00670	Alpha Capital Anstalt v. Advanced Cell Technology, Inc.	Alpha Capital Anstalt	Plaintiff
1/7/2009	1:09-cv-00118	Anwar et al v. Fairfield Greenwich Limited et al	Brian Francoeur	Defendant
1/7/2009	1:09-cv-00118	Anwar et al v. Fairfield Greenwich Limited et al	Brian Francoeur	Consolidated Def
8/19/2008	1:08-cv-07336-VM	Alpha Capital Anstalt v. Xchem International, Inc	Alpha Capital Anstalt	Plaintiff
6/24/2008	1:08-cv-05686-AKH	Alpha Capital Anstalt et al v. Ness Energy International, In...	Alpha Capital Anstalt	Plaintiff
6/24/2008	1:08-cv-05686-AKH	Alpha Capital Anstalt et al v. Ness Energy International, In...	Bristol Environmental Inc.	Plaintiff
6/24/2008	1:08-cv-05686-AKH	Alpha Capital Anstalt et al v. Ness Energy International, In...	Ellis International, Ltd	Plaintiff
4/4/2008	1:08-cv-03369-DAB	Alpha Capital Anstalt v. Brilliant Technologies Corporation	Alpha Capital Anstalt	Plaintiff
2/14/2008	1:08-cv-01543-GBD	Double U Master Fund L.P. v. Millenium Biotechnologies Group...	Double U Master Fund L.P.	Plaintiff
12/20/2007	1:07-cv-11430-CM-THK	Alpha Capital Anstalt v. Silver Dragon Resources, Inc.	Alpha Capital Anstalt	Plaintiff
5/2/2007	1:07-cv-03493-CM	Alpha Capital Aktiengesellschaft v. Fellows Energy, Ltd.	Alpha Capital Aktiengesellschaft	Plaintiff
6/28/2004	1:04-cv-05096	Stonestreet Limited Partnership v. Armitex, Inc.	Stonestreet Limited Partnership	Plaintiff
9/24/2003	03-09266	Enron Creditors Recovery Corp., et al- Adversary Proceeding	Arthur Andersen LLP	Third Party Defer
5/5/2003	1:03-cv-03120	Sedona Corporation v. Ladenburg Thalmann, et al	Dr. Herbert Batliner	Defendant
1/30/2000	1:00-cv-00648	Auction Houses Anti., et al v. , et al	Beverly Berry	Consolidated Pla

29 Rows Total



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## Exhibit #1-4

Page 1 of 1

Main Menu > Balance and Information Reporting > INCOMING WIRE TRANSFERS

Help  
Cash Manager

Here is the information on your Incoming Wire:

Date Received	11/08/06
Date Posted	11/08/06
Time (ET)	16:00:28
Account	45208884
Beneficiary	GRUSHKO & MITTMAN
Amount	453,967.50
Sending Bank	G.F.T. REVERSAL ACCOUNT
Originator	GRUSHKO MITTMAN
Global Reference #	F07831205FA01
Other Reference Number #	200611081048420650742006110810484206507
Additional Information	SENDER REF: 3102432184533 NEED ACCOUNT TO CREDIT

Note: Time is in 24-hour format.

Back

453,967.50  
20.00  
453,947.50

Money

Case 1:07-cr-01143-CM-THK Document 15-7 Filed 02/20/2008 Page 1 of 6

ACTIVITY LOG

Date: November 8, 2006  
User: EDWARD M. GRUSHKO

Time	Description	Amount	Account	Effective Date
Date: November 8, 2006				
1:59p	WIRE TRANSFER	453,967.50	from 000045208884	11/8
2:00p	WIRE TRANSFER	34,987.50	from 000045208884	11/8

RE: Silver Dragon Resources Inc. and Alpha Capital Anstalt

(1) Silver Dragon Resources, Inc.

(2) Dragonfly Capital Partners, LLC

(3) Grushko & Mittman IOLA Trust Account Check No.: 2497 drawn to the order of Grushko & Mittman, P.C. in the amount of \$11,020

Money  
Laundering

Per Curiam.

Respondent, Edward M. Grushko, was admitted to the practice [201 A.D.2d 185]

of law in the State of New York by the Second Judicial Department on September 23, 1981 and at all times pertinent to this proceeding has maintained an office for the practice of law within the First Judicial Department.

On April 18, 1991, respondent was convicted, upon a plea of guilty, in the United States District Court for the District of Nevada, of one count of conspiracy to commit securities fraud, in violation of 18 USC § 371 and 15 USC § 77q (a) and § 77x, a felony under the United States Code. On August 25, 1993, respondent was sentenced to one year of "administrative" probation and a \$5,000 fine. Respondent's probation has been completed. Respondent's conviction resulted from filing a registration statement with the Securities and Exchange Commission (SEC) that failed to disclose that the named officers and directors were mere figureheads and that actual control of the corporations was by third parties and that stated falsely that the nominee officers and directors had purchased stock in the corporation.

DOUGLAS PETER HALL  
U.S. Court of Appeals  
Second Circuit

## ACTIVITY LOG

Date: November 8, 2006 ✓

User: EDWARD M. GRUSHKO

Save

Time	Description	Amount	Account	Effective Date
Date: November 8, 2006				
1:59p	WIRE TRANSFER	453,967.50	from 000045208884	11/8
2:00p	WIRE TRANSFER	34,987.50	from 000045208884	11/8

RE: Silver Dragon Resources Inc. and Alpha Capital Anstalt

(1) Silver Dragon Resources, Inc.

(2) Dragonfly Capital Partners, LLC

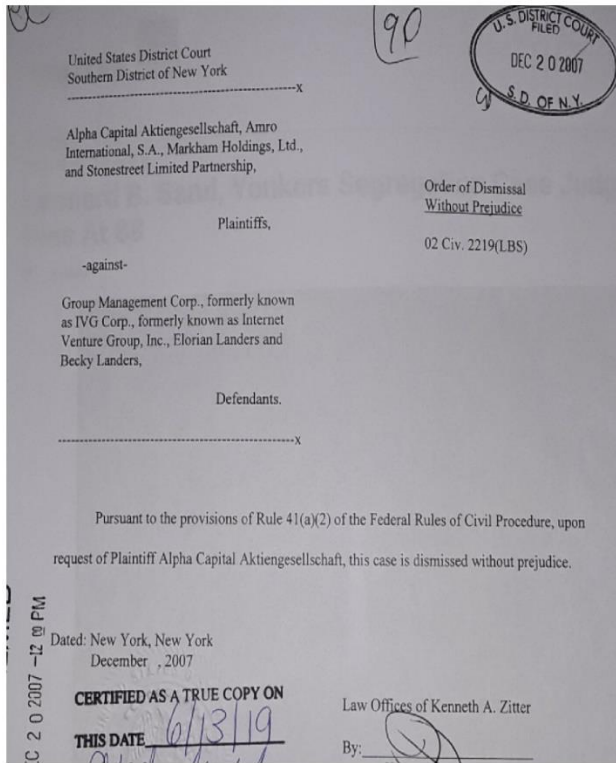
(3) Grushko & Mittman IOLA Trust Account Check No.: 2497 drawn to the order of Grushko & Mittman, P.C. in the amount of \$11,020

Money  
Laundering  
Grushko and  
McMahon

<https://citibusinessonline.da-us.citibank.com/basprod/citiwt/html/BAXlog5.html>



## Exhibit #1-5.1



EVERSHEDS  
SUTHERLAND

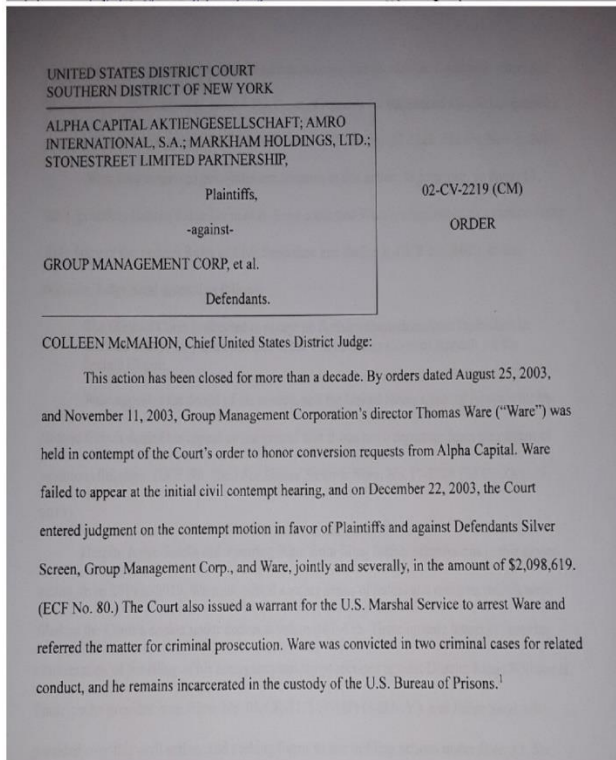


**Sarah E. Paul, Partner**  
[sarahpaul@eversheds-sutherland.com](mailto:sarahpaul@eversheds-sutherland.com)  
 New York +1.212.301.6587



Sarah Paul's practice spans all areas of white-collar defense, with a particular focus on government, internal, and cross-border investigations, tax controversy, and cybersecurity and privacy law. She has extensive experience litigating complex criminal and civil cases.

Sarah joined Eversheds Sutherland from the United States Attorney's Office for the Southern District of New York, where she served for over nine years as an Assistant United States



## Exhibit #1-5.2

Case 1:07-cv-03493-CM Document 1 Filed 05/02/07 Page 1 of 1

United States District Court  
Southern District of New York

-----x

Alpha Capital Aktiengesellschaft,  
Plaintiff,

vs.

Fellows Energy, Ltd.,  
Defendant.

-----x

**Judge McMahon**  
**07 CV 3493**

Complaint

RECEIVED  
MAY 02 2007  
U.S. DISTRICT COURT  
CASHIERS

Plaintiff Alpha Capital Aktiengesellschaft, by its attorneys, for its Complaint herein,  
respectfully alleges:

the parties

1. Plaintiff Alpha Capital Aktiengesellschaft ("Alpha Capital") is a Liechtenstein corporation with its principal place of business Vaduz, Liechtenstein.

2. Upon information and belief, Defendant Fellows Energy, Ltd. ("Fellows") is a Nevada corporation with its principal place of business in Broomfield, Colorado.

**Exhibit #1-6****Alpha Capital Ansalt, Plaintiff**

- Represented by Unknown Firm

Name	Phone	Fax	E-Mail
Kenneth A. Zitter	+1 212 532 8000	+1 212 679 8998	kzitter@aol.com

**V.****Silver Dragon Resources, Inc., Defendant**

- Represented by Dorsey &amp; Whitney, LLP

Name	Phone	Fax	E-Mail
Brooke Ellen Pietrzak	+1 212 415 9200		pietrzak.brooke@dorsey.com

Office	Foley Square
Filed	12/20/2007
Jury Demand	None
Demand	
Nature of Suit	190 - Contract: Other Contract Actions
Cause	§ 28 U.S.C. § 1332 Diversity-Other Contract
Jurisdiction	Diversity
Disposition	Dismissed - Voluntarily
County	XX Out of U.S.
Terminated	7/18/2008
Origin	1
Reopened	None
Lead Case	None
Related Case	
Other Court Case	None
Def Custody Status	
Flags	CASREF, CLOSED, ECF

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[Calendar Events](#)
[Related \(0\)](#)
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**Filed: 7/18/2008, Entered: 7/18/2008**

Stipulation and Order of Dismissal

**STIPULATION AND ORDER OF DISMISSAL WITH PREJUDICE, pursuant to FRCP 41(a)(1) with prejudice and without costs or disbursements as between plaintiff and defendant. (Signed by Judge Colleen McMahon on 7/17/08) (cd)**



## Exhibit #1-7

UNITED STATES v. WARE, CASE NO. 09-0851 (2D CIR.) (2010)  
ON APPEAL FROM UNITED STATES v. WARE, 04cr1224 (Sweet, J.)  
18 USC 401(3) CRIMINAL CONTEMPT PROSECUTION  
APPELLANT WARE'S OPENING BRIEF

1 Moreover, being unregistered brokers-dealers operating in violation of 15 U.S.C.  
2 578o(a)(1), Tr. 204-05, Rabinowitz testified as follows at Tr. 204:

3

4 **ADMISSION OF BROKER-DEALER STATUS BY**  
5 **ARI RABINOWITZ UNDER CROSS EXAMINATION.**

6

7 **Mr. Ware: What is the name of your company?**

8 **Rabinowitz: LH Financial Services.**

9 **Mr. Ware: What business is that company?**

0 **Rabinowitz: We are in the private placement business.**

1 **Tr. 206**

2 **Mr. Ware: Approximately how many companies have you assisted Alpha Capital**  
3 **with over, let's say, the last five years?**

4 **Rabinowitz: A good few hundred,**

5 **Mr. Ware: A good few hundred?**

6 **Rabinowitz: Yes,**

7 Rabinowitz' testimony of being in the private placement business, and assisting  
8 Alpha Capital with "a good few hundred" transactions: pursuant to 15 U.S.C.  
9 §77b(a)(12) Rabinowitz and Alpha were "dealers" not eligible for any exemption  
0 under Title 15 Section 4, and thus not eligible for 17 C.F.R. §240.144(k)/(Rule 144(k)  
1 regarding the purchase of the Notes of IVG/GPMT (GX 1-4).

Page 4 of 12

Appellant Ware's Statement of Facts  
U.S. v. Ware, 09-0851cr (2d Cir.)  
Opening Appeal Brief



## Exhibit #1-8

### Commission Partially Settles Microcap Fraud Manipulation Action

T. Gorman |  Posted on February 10, 2019 |  
Posted in SECActions

The Commission and the staff may have returned to the office in time to pack-up. By all reports there is no deal on funding the government past the end of the week, February 15, 2015. If that continues the stalemate could begin anew at the close of business on Friday.

Since the government returned the Commission has continued to move forward in court, partially settling a large microcap fraud action – the type of case that is central to its retail investor focus. The settlements were in *SEC v. Honig*, Civil Action 18-cv-08175 (S.D.N.Y. Filed Sept. 7, 2018) with Defendants Mark Groussman, his firm Melechdavid and Alpha Capital Anstalt, a Lichtenstein hedge fund managed by an unnamed New York based unregistered investment adviser.

## Exhibit #1-9



09-0851-cr  
USA v. Ware

UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

SUMMARY ORDER

RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO A SUMMARY ORDER FILED ON OR AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY FEDERAL RULE OF APPELLATE PROCEDURE 32.1 AND THIS COURT'S LOCAL RULE 32.1.1. WHEN CITING A SUMMARY ORDER IN A DOCUMENT FILED WITH THIS COURT, A PARTY MUST CITE EITHER THE FEDERAL APPENDIX OR AN ELECTRONIC DATABASE (WITH THE NOTATION "SUMMARY ORDER"). A PARTY CITING A SUMMARY ORDER MUST SERVE A COPY OF IT ON ANY PARTY NOT REPRESENTED BY COUNSEL.

At a stated Term of the United States Court of Appeals for the Second Circuit, held at the Daniel Patrick Moynihan United States Courthouse, at 500 Pearl Street, in the City of New York, on the 4<sup>th</sup> day of November, two thousand ten.

Present: ROBERT A. KATZMANN,  
PETER W. HALL, *Circuit Judges,*  
BARBARA S. JONES, *District Judge.\**

UNITED STATES OF AMERICA,  
*Appellee,*  
- v. - No. 09-0851-cr  
THOMAS WARE, also known as Ulysses Thomas Ware,  
*Defendant-Appellant.*

For Defendant-Appellant: Thomas Ware, *pro se*, Atlanta, GA  
For Appellee: Sarah E. Paul, Assistant United States Attorney  
(Maria E. Douvas, Katherine Polk Filla, Assistant United States Attorneys, *of counsel*),

\* Judge Barbara S. Jones of the United States District Court for the Southern District of New York, sitting by designation.

United States District Court  
Southern District of New York

Alpha Capital Aktiengesellschaft, Anro  
International, S.A., Markham Holdings, Ltd.,  
and Stonestreet Limited Partnership,

Plaintiffs,  
-against-  
Group Management Corp., formerly known  
as IVG Corp., formerly known as Internet  
Venture Group, Inc., Elorian Landers and  
Becky Landers,  
Defendants.

Pursuant to the provisions of Rule 41(a)(2) of the Federal Rules of Civil Procedure, upon  
request of Plaintiff Alpha Capital Aktiengesellschaft, this case is dismissed without prejudice.

Dated: New York, New York  
December, 2007

CERTIFIED AS A TRUE COPY ON  
THIS DATE 6/13/19  
BY [Signature] Clerk  
[Signature] Deputy

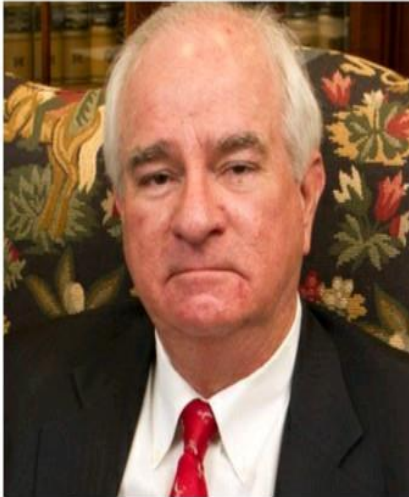
Law Offices of Kenneth A. Zitter  
By: [Signature]  
Kenneth A. Zitter, Esq.  
Attorneys for Plaintiff  
Alpha Capital Aktiengesellschaft  
260 Madison Avenue - 18<sup>th</sup> Floor  
New York, New York 10016

U.S.D.J. 12/13/07

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12-18-07



## Exhibit #1-10



Q. Approximately how many companies have you assisted Alpha Capital with, let's say the last 5 years?

A. A good few hundred.

Q. A good few hundred?

A. Yes.

Rabinowitz further testified, Tr. 217-19, as follows:

Q. Did you on behalf of Alpha Capital invest in a company by the name Cybernaut?

A. Yes.

Q. How much did you invest in Cybernaut?

A. A few million over a few years.

Q. How much did you make on this investment?

A. We made a lot of money. I don't remember.

Q. How much is a lot?

A. Maybe \$10 million.

Q. So you made \$10 million on a few million investment?

A. Give or take.

Q. Now, when you started investing in [Cybernaut] wasn't the stock trading over \$9 and went to 42 cents a share [after you and Alpha Capital shorted the stock]?

A. ...

Taking Rabinowitz' testimony at Tr. 206, "a good few hundred" companies he and Alpha Capital AG invested in, with the amount of money Rabinowitz admitted to making on Cybernaut, Tr. 218-19, "[m]aybe \$10 million," the Badian Gang's insider trading scam has criminally profited by: (300-400 companies) multiplied by (\$10,000,000) equals \$3-4 billion (US Dollars) in ill-gotten gain: a continuing criminal financial enterprise operated from within the U.S. Courthouse at 500 Pearl St. New York, NY, and One St. Andrews Plaza, New York, by Art III judicial officers and DOJ Officials and staff.

U.S. v. Ware, 04-CR-1224(RWS) and 05-CR-1115(WHP) were both brought by officials of the DOJ

investigation on cases that were less than a year, one person acted, no newspaper article was ever changed, it still is called the Badian Gang since then. I repeat.

Read Federal Rule of Civil Procedure 4.1. It states that no report of civil commitment for a person held in custody "may be made and released to any person." It goes on to state that other orders in contempt proceedings are subject to the same rule.

Moreover, appeal like before didn't do his or her homework. Someone needs to file a motion for reconsideration and have the arrest again.

Jeffrey B. Morris  
Trial Counsel  
United States Securities and Exchange Commission  
Fort Worth Office  
Nagant Plaza, Suite 1800  
21 Seaway Dr., Suite 1800  
Fort Worth, TX 76102  
Phone: (817) 870-6412  
Fax: (817) 870-6417  
E-mail: jbmorris@sec.gov

-----Original Message-----  
From: Alexander.Alexander@usdoj.gov (Alexander.Alexander@usdoj.gov)  
Sent: Wednesday, October 06, 2010 1:04 PM  
To: 'WELLSFARGO.COM'  
Subject: RE: Thomas Ware

Re likely memo who was arrested on the civil contempt crime. He was arrested in Atlanta and released the next day, which was somewhat around the beginning of September. He is listed now as a witness on a civil contempt order against several other individuals from the courthouse or in the same state, as he was arrested in Georgia, which he pointed out to Judge Ware, the only guy that he said. He was released on a release, however, which was not a release, but a release, which he pointed out to Judge Ware, the only guy that he said. He was released on a release, however, which was not a release, but a release, which he pointed out to Judge Ware, the only guy that he said.

-----Original Message-----  
From: Alexander.Alexander@usdoj.gov (Alexander.Alexander@usdoj.gov)  
Sent: Wednesday, October 06, 2010 12:17 PM  
To: 'WELLSFARGO.COM'  
Subject: Thomas Ware

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Subject: Thomas Ware

to Mr. Ware, " ... I will have Judge Sand throw your ass in prison, nigger, and you will never get out ... who do you think that you are fucking with ... I want that stock and those opinions, else I will have the marshals arrest your ass ... you better give them to us ... I'm not playing around with you ... don't do it and see what happens to you ...."<sup>10</sup>

(emphasis in original) (quoting Kenneth A. Zitter, Esq. in March 2003; see also the transcript of the September 1, 2004 illegal arrest (kidnapping) proceedings of Mr. Ware in Atlanta, GA, on the admitted request of Zitter and Rabinowitz, by the U.S. Marshals (NDGA) held before District Judge Thomas W. Thrash, Jr.; cf. Doc. #88 order in 2219 (Sand, J.) ruling Thrash and the Marshals lacked authority and jurisdiction to have entered Mr. Ware's law office in Atlanta, GA on September 1, 2004 demanding the issuance of bogus Rule 144(k) legal opinions and more than 10 million free-trading shares of GPMT's stock)<sup>11</sup>.

States in 2002-2007 attempting to extort GPMT and Mr. Ware out of more than \$500 million dollars in



## Exhibit #1-11

75. 9/1/04 Contempt of Court Atlanta, Georgia 10/15/04:  
Age: 44 Dismissed pursuant  
to order of Judge  
Leonard B. Sand

76. According to Sr. U.S. Probation Officer Atonya M. Craft of the Northern District of Georgia, on September 1, 2004, the defendant was arrested in the Northern District of Georgia in response to an order issued by the Honorable Leonard B. Sand, U.S. District Judge, Southern District of New York, in 02 CV 2219 (LBS). On December 22, 2003, Judge Sand ordered the defendants in this civil matter (which included the defendant) to deliver Silver Screen Studios, Inc. common stock to honor all of the conversion requests for Group Management Corp. or Silver Screen Studios, Inc. stock duly submitted by the plaintiffs. On June 21, 2004, Judge Sand issued a warrant for the defendant's arrest for contempt of court, for failure to obey the December 22, 2003, order. This arrest order indicated that the defendant was to be arrested by the U.S. Marshals Service and detained until the defendant purged himself of contempt by delivering the above-referenced



to Mr. Ware, " ... I will have Judge Sand throw your ass in prison, nigger, and you will never get out ... who do you think that you are fucking with ... I want that stock and those opinions, else I will have the marshals arrest your ass ... you better give them to us ... I'm not playing around with you ... don't do it and see what happens to you ...."<sup>10</sup>

(emphasis in original) (quoting Kenneth A. Zitter, Esq. in March 2003; see also the transcript of the September 1, 2004 illegal arrest (kidnapping) proceedings of Mr. Ware in Atlanta, GA on the admitted request of Zitter and Rabinowitz, by the U.S. Marshals (NDGA) held before District Judge Thomas W. Thrash, Jr., cf. Doc. #88 order in 2219 (Sand, J.) ruling (Thrash and the Marshals lacked authority and jurisdiction to have entered Mr. Ware's law office in Atlanta, GA on September 1, 2004 demanding the issuance of bogus Rule 144(d) legal opinions and more than 10 million free-trading shares of GPMT's stock)<sup>11</sup>

States in 2002-2007 attempting to extort GPMT and Mr. Ware out of more than \$500 million dollars in

Rosenfeld, Goldman & Ware, Inc.  
Thomas Ware  
101 Marietta St.  
Suite 1070  
Atlanta, GA 30303  
(404) 522-1222 phone  
(404) 522-1447 fax

Sept. 1 kidnapping of Ware

Original Message  
From: Norm Jeffrey B.  
To: Thomas Ware  
Cc: Korostoff, Stephen J.; Webster, Stephen; Draper, Julia D.  
Sent: Tuesday, August 17, 2004 3:54 PM  
Subject: RE: Deposition of Steve Webster

Mr. Ware:

If you are inclined to further undermine your credibility with the Court and incur further sanctions, then, to quote the Duke of Wellington, "publish and be damned." I remind you that the Court stated in the July 28 Order that you are perilously close to having a default sanction entered against you. I assure you that if you notice Mr. Webster's deposition—or act that can only be done in bad faith—my Motion for Protective Order will be accompanied by a motion renewing the Commission's request that the Court enter a default judgment against you and Rosenfeld, Goldman & Ware. I will not give you cause on which the Commission will make Mr. Webster available because, as I stated, I can envision no issue upon which he can offer relevant testimony. Your silence confirms my conclusion. I ask only that should you make the mistake of attempting to schedule Mr. Webster's deposition, you schedule it no earlier than September 1, 2004.

Jeffrey B. Norris

# Sept. 1, 2004 kidnapping

WARE, ULYSSES THOMAS P47014 - C. Tyler

15

common stock. On July 1, 2004, the defendant was arrested by the U.S. Marshals Service in the Northern District of Georgia. He appeared before the Honorable Thomas W. Thrash, Jr., in that district, refused to purge himself of contempt and offered no acceptable reason to prevent enforcement of the contempt order. On September 2, 2004, the Honorable Thomas W. Thrash, Jr., ordered the defendant to remain in the custody of the U.S. Marshals Service until he purged himself of contempt or was ordered released by either Judge Thrash or Judge Sand. The defendant's request for bond was granted, and he was released on September 3, 2004, after posting \$150,000 in cash and a \$100,000 bond, cosigned by two other individuals.

77. On September 28, 2004, the Honorable Leonard B. Sand vacated the June 21, 2004, order in part to the extent that it authorized the arrest of the defendant outside of the state of New York and more than 100 miles from the U.S. Courthouse located at 500 Pearl Street, New York, New York. The order remained in effect insofar as it could be served on the defendant in the state of New York or within 100 miles of the U.S. Courthouse located at 500 Pearl Street, New York, New York.

78. On October 7, 2004, the defendant moved to vacate and release the bail of \$250,000 set on September 2, 2004. On October 15, 2004, the defendant's motion was granted by the Honorable Thomas W. Thrash, Jr.; \$150,000 was refunded to the defendant, and the corporate surety bond was discharged.

8/25/2012

8/15/201

e 1:12-cv-04397-TWT Document 1-5 Filed 12/19/12 Page 33 of 49

Draper, Julia D.

From: Norm Jeffrey B.  
To: Thomas Ware  
Cc: Korostoff, Stephen J.; Webster, Stephen; Draper, Julia D.  
Sent: Tuesday, August 17, 2004 3:54 PM  
Subject: RE: Deposition of Steve Webster

Mr. Ware:

If you are inclined to further undermine your credibility with the Court and incur further sanctions, then, to quote the Duke of Wellington, "publish and be damned." I remind you that the Court stated in the July 28 Order that you are perilously close to having a default sanction entered against you. I assure you that if you notice Mr. Webster's deposition—or act that can only be done in bad faith—my Motion for Protective Order will be accompanied by a motion renewing the Commission's request that the Court enter a default judgment against you and Rosenfeld, Goldman & Ware. I will not give you cause on which the Commission will make Mr. Webster available because, as I stated, I can envision no issue upon which he can offer relevant testimony. Your silence confirms my conclusion. I ask only that should you make the mistake of attempting to schedule Mr. Webster's deposition, you schedule it no earlier than September 1, 2004.

Jeffrey B. Norris

3501-72

Steven Reikin  
Co-Director  
Division of  
Enforcement

Steven Reikin was named  
Co-Director of the BECS  
Division of Enforcement  
June 2007

Before entering the Commission, Mr. Reikin was  
Managing Partner of Sullivan & Connolly LLP, General  
Counsel and Managing Director, NY, NY (not listed)



Exhibit #1-12

*Douvas Perjury* P. 18

UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT,

-----X  
UNITED STATES OF AMERICA,

Appellee,

: 09-0851-Cr

v.

THOMAS WARE,

Defendant-Appellant.

-----X  
MARIA E. DOUVAS, pursuant to Title 28, United States  
Code, Section 1746, hereby declares under penalty of perjury:

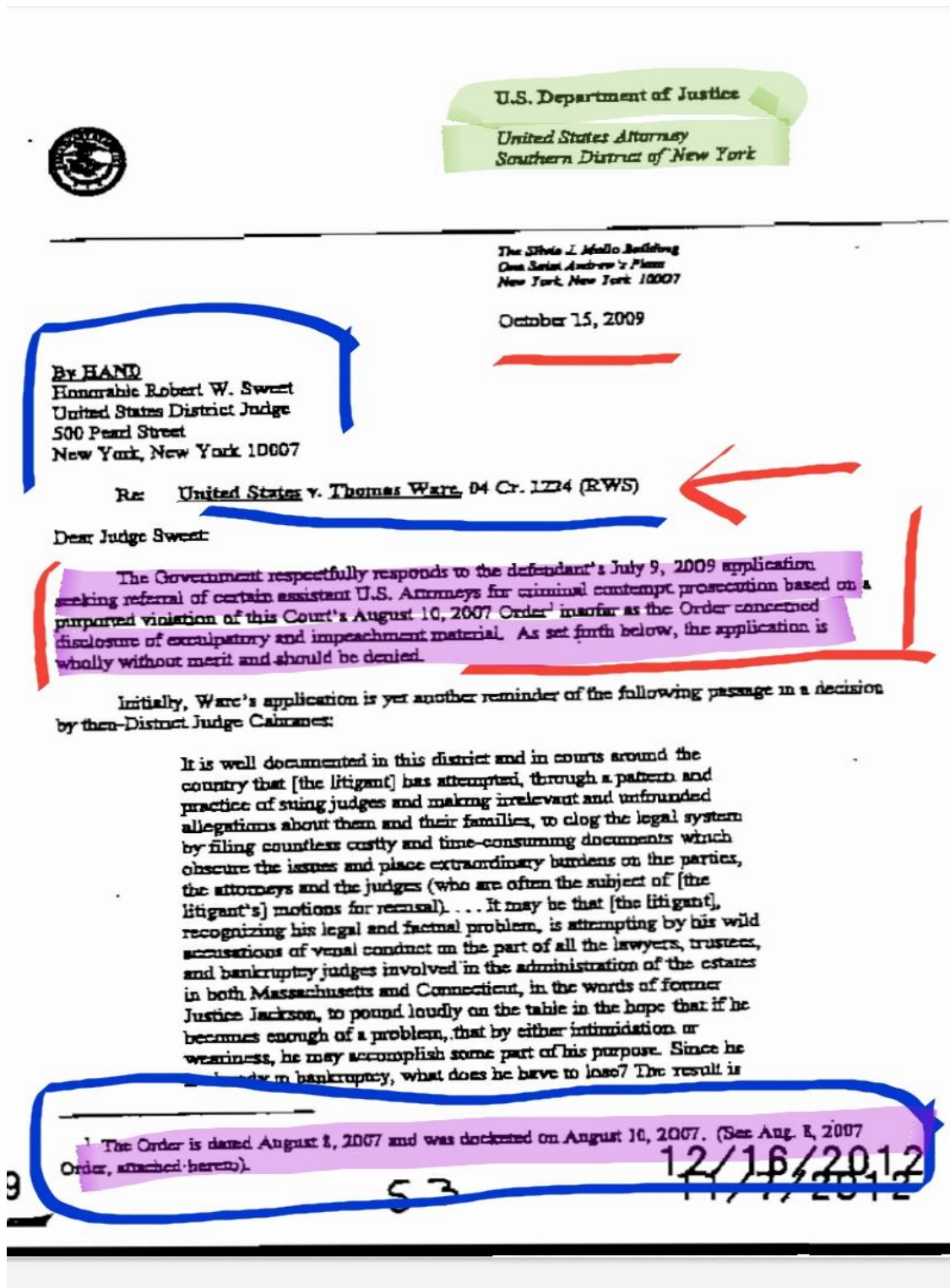
1. I am an Assistant United States Attorney in the  
Office of Lev L. Dassia, Acting United States Attorney for the  
Southern District of New York, and I am one of the attorneys  
responsible for representing the Government in this appeal. This  
affirmation is submitted in support of the Government's motion  
for a 30-day extension of time in which to file its affirmation  
in response to Appellant's Motion for the Government to Certify  
Compliance with Brady and Giglio and Motion for Bail in 07-5222-  
Cr and 09-0851-Cr.

2. This request for an extension represents the first  
request for an extension by the Government in connection with  
Appellant's instant motion.

3. Appellant has appealed from an order entered on  
November 27, 2007, in the United States District Court for the  
Southern District of New York, by the Honorable Robert W. Sweet,  
United States District Judge, which ordered the Appellant to be

- 47

## Exhibit #1-13



## Exhibit #1-14

Brady Inad

that the accusations increase, the motions, pleadings, complaints, and suits multiply, courts and lawyers are buried in mountains of time-consuming paper. If there is one truth, it is that the estate will be bled white by the costs and legal fees engendered by his 'crusade.'

*In re Martin-Trigona*, 573 F. Supp. 1237, 1242 (D. Conn. 1983).<sup>2</sup> Discovery Ov

Turning to Ware's July 9, 2009 application, Ware claims that this Court's August 10, 2007 Order directed the Government to produce all *Brady* and *Giglio* material by October 31, 2007. That, however, is incorrect. The face of the Order stated that "the Government shall produce all exculpatory and impeachment evidence prior to trial" (see Order at 7), as opposed to October 31, 2007. The trial began on November 14, 2007. Indeed, as the Order itself recounts, it was the defendant himself who had requested production of all exculpatory and impeachment material on this timetable. (See Order at 2.)

By *ex parte* letter submitted on or about November 9, 2007 (which was approximately one week before trial began), the Government informed this Court about certain matters it had learned about one of its trial witnesses, Jeffrey Norris, including two instances when Norris was disciplined by his employer, the Securities and Exchange Commission. In its letter the Government sought a ruling that it did not need to disclose to the defendant the material described in the letter or, to the extent disclosure was required, a ruling that the material could not be used for cross-examination purposes. This procedure used by the Government for seeking this ruling was consistent both with this Court's orders and Second Circuit law. See *United States v. Kizewski*, 877 F.2d 210, 216 (2d Cir. 1989) (approving procedure of having court conduct *in camera* review of government agent's personnel file, to determine whether any information was discoverable under *Giglio*); *United States v. Salameh*, 152 F.3d 88, 131-32 (2d Cir. 1998) (affirming court's refusal, after *in camera* review, to disclose government witness's prior disorderly conduct violations).

On or about November 16, 2007, before Norris's direct examination began, this Court provided the defendant with a copy of the Government's November 9, 2007 letter. This Court gave the defendant time to review the letter and then heard argument from the defendant on why the material described in the letter was relevant to Norris's credibility as a witness in this case and was a proper basis for cross-examination. After hearing from Ware, this Court precluded

<sup>2</sup> On August 18, 2009 the Court of Appeals affirmed the securities fraud conviction of the defendant *Ulysses Thomas Ware* in the case before Judge Pauley, and rejected all of his claims on appeal with the exception of whether there was a factual basis for applying one of the role enhancements under the Sentencing Guidelines, as to which issue the Court of Appeals remanded. See *United States v. Ware*, \_\_\_ F.3d \_\_\_, 2009 WL 2512321 (2d Cir. Aug. 18, 2009). In addition, over the last several months, the Court of Appeals also has denied various motions filed by Ware, including motions for, among other things, dismissal of the indictment before Judge Pauley on grounds of "judicial corruption" and prosecutorial misconduct; referral of various AUSAs for criminal prosecution and ethics charges; referral of Circuit Judges Kearse, Sack, and Hall for criminal prosecution; various arrest warrants, and bail.



## Exhibit #1-15

P. 20

*Brady Found*

cross-examination on the matters described in the Government's letter. (See trial tr. 534-35, 571-75, attached hereto.) In the course of doing so, this Court stated the following: "It doesn't constitute Giglio material" (tr. 534); "[In] my view these matters do not go to veracity or truth" (tr. 573); and "I don't think it is Giglio material, but I turned it over to you so that you can - I turned the letter over to you so that you would be aware, but I don't think the material is Giglio material" (tr. 574).

Contrary to the defendant's instant claim that the Government somehow acted improperly in connection with disclosure of this information about Norris, the Government acted properly in terms of both the manner and timing of its handling of this information. Moreover, before Norris began his direct testimony, the defendant was given ample opportunity to review the Government's letter and was permitted to argue why he believed this information could be used for cross-examination. Only then did this Court preclude him from using this material to cross-examine. Thus, the Government did not act improperly and, in any event, the defendant suffered no prejudice as a result of the nature or timing of the disclosure.

In sum, as this Court repeatedly stated, the material at issue was not Giglio material; to the extent it was, consistent with this Court's August 10, 2007 Order and Second Circuit precedent, the Government disclosed it to the Court prior to trial for a determination as to whether it was Giglio material; and before precluding cross-examination using it, the Court disclosed it to the defendant and heard argument from him. Thus, the Government did not violate the Court's August 10, 2007 Order, either intentionally or unintentionally.

Accordingly, the Court should deny Ware's application for a referral of certain prosecutors for criminal contempt prosecution.

Respectfully submitted,

FREET BHARARA  
United States Attorney  
Southern District of New York

By: *Nicholas S. Goldin*  
Nicholas S. Goldin  
Assistant United States Attorney  
(212) 637-2334

cc: Ulysses Thomas Ware, pro se  
Reg. No. 56218-019  
Atlanta Prison Camp  
PO Box 150160  
Atlanta, GA 30315

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## Exhibit #1-16

Mr. Ware: What were those steps?

Zitter: We [Judge Sand and the four plaintiffs] attempted to compel [extort] you [Mr. Ware] to issue the [GPMT free-trading] stock [in violation of Section 4(1)].

Mr. Ware: How did you attempt to compel [extort] Mr. Ware to issue the stock?

Zitter: By applying to [Judge Sand] to hold you in civil contempt [kidnapping] if you [Mr. Ware] didn't do so.

### Fact #28

At trial in 1224 the following events regarding AUSA Nicholas S. Goldin's conspiracy to obstruct justice took place:

1. AUSA Goldin made the binding judicial admission when in direct examination of Zitter at Tr. 305, Goldin, ostensibly totally ignorant to the elements of criminal securities fraud as well as §77b(a)(11), introduced into evidence GX-9, Mr. Ware's letter dated January 28, 2003 addressed to Zitter, in regard to Zitter's Hobb Act extortion attempts on Mr. Ware and GPMT (GX-52, 52A, 52B, i.e., Hobb Act extortion demands).
2. AUSA Goldin actually had Zitter read into the record at GX-9, Tr. 305 L13, Mr. Ware's January 28, 2003 letter: "Dear Mr. Zitter, we are in receipt of a fax originating from your office requesting an illegal issuance of [GPMT's] free trading shares to your clients." (emphasis added).
3. AUSA Goldin's faux pas is a confession by Goldin and Zitter, that the plaintiffs through Zitter were on notice of the illegality of their actions as early as January 28, 2003, and took "steps" to further the Hobbs Act conspiracy money laundering criminal activities.
4. At Tr. 306-07, AUSA Goldin foolishly introduced into evidence GX-10 (Zitter's letter of January 29, 2003 addressed to Ware in reply to Ware's January 28, 2003 letter).
5. In GX-10 Zitter admits to taking "steps" necessary for the unregistered distribution of IVG/GPMT's securities on behalf of his clients (the four plaintiffs in 02-CV-2219(LBS)) thus, conferring §2(a)(11) statutory underwriter status on them as well.

### Fact #29

At trial in 1224 the Government via AUSAs Nicholas S. Goldin and Maria E. Douvas made the following judicial admissions, to wit:

1. The Government admitted via its indictment ¶9-10, the Notes (GX 1-4) were sold pursuant to GX-5, the subscription agreement.

The Government introduced GX-1 and GX-5, at trial, through its own witness Rabinowitz at Tr. 182, Tr. 190 respectively; and AUSA Goldin, Tr. 252, stated as an officer of the court:

"These are very complex areas of the law. There is no one [associated with the Government] in this courtroom [other than Mr. Ware] qualified to discuss these matters. The document [GX-5 (the subscription agreement)] speaks for itself." (emphasis added). Mr. Goldin apparently did not understand or realize exactly what para. 10.1(iv) of GX-5 was in fact speaking.

2. Therefore, the Government's judicially admitted GX-5's unredacted content -- ¶10.1(iv), requested IVG to file a Form SB-2 registration statement within 90 days of February 7, 2001, the purchase date of the Notes [GX 1-4], to enable the conversion shares, "to be sold on the open market without restriction" -- 'speaks for itself.'

Hence, the Government admitted via the admissions contained in GX 1-4, 5 and through Rabinowitz's testimony:



## Exhibit #1-17



Shady, 'thuggish' mogul Solomon Obstfeld ran with powerful pals, no one's buying 'suicide' story !!!

By ALICIA GORDON and PERRY BAKER  
DAILY NEWS STAFF WRITERS | JAN. 12, 2015 AT 1:13 AM



Obstfeld, 55, who traveled in powerful international circles and ran the Central Park South investment firm LH Financial, had a low profile - but a host of entanglements.

He made headlines in an ugly fight for control over a Brooklyn condo project.


Was Obstfeld murdered to cover up the RICO Hobbs Act international money laundering extortion conspiracy run by Alpha Capital, AG (Anstalt) and others?

Page 22 of 37  
February 3, 2021  
IRNewsWires Investigative Report

## Exhibit #1-18.1

5/18/2021

Gmail - Alpha Capital, A.G.

 Gmail

Ulysses Ware <utware007@gmail.com>

---

**Alpha Capital, A.G.**  
2 messages

---

**Ombudsman's Office** <Ombuds@finra.org>  
To: "UTware007@gmail.com" <UTware007@gmail.com>

Wed, Apr 21, 2021 at 2:51 PM

Good afternoon,

Pursuant to our conversation, I have reviewed FINRA's [BrokerCheck](#) and Central Registration Depository databases and was unable to locate a FINRA member firm named Alpha Capital, A.G. that was registered with FINRA.

If you have concerns that Alpha Capital A.G. is claiming to be a FINRA member, you may want to consider filing a Regulatory Tip with FINRA's National Cause and Financial Crimes Detection Program for further review. Those regulatory tips warranting additional review and investigation will be subject to a regulatory response. FINRA may forward any regulatory tips that fall outside its jurisdictional reach to the appropriate regulatory or law enforcement agencies. In the future, you can notify FINRA of any unfair practices or violations of FINRA rules by filing a regulatory tip online via <http://www.finra.org/industry/file-tip>.

FINRA Regulatory Tip Form  
<http://www.finra.org/industry/file-tip>  
FINRA - Regulatory Tips  
1735 K Street, NW  
Washington, DC 20006-1500  
Fax: (866) 397-3290

If you require further assistance, please contact the Office of the Ombudsman at 888-700-0028 or [ombuds@finra.org](mailto:ombuds@finra.org).

By way of background, FINRA's Office of the Ombudsman provides a neutral and confidential forum for member firms and their employees, public investors, and any other business or individual who interacts with FINRA to voice their concerns about operations, enforcement, or other FINRA activities or staff. Individuals who are unsure of the proper channel for addressing a concern or feel that the issue cannot be resolved through other channels may also contact the Ombudsman's Office. Additional information can be found online at: <http://www.finra.org/about/office-ombudsman>.

*Upon conclusion of your contact with the Ombudsman's office, please take five minutes to complete our anonymous survey at <https://www.surveymonkey.com/s/FINRAOmbudsman>. We actively use your anonymous and confidential feedback to constantly improve and provide our visitors the best possible service.*

<https://mail.google.com/mail/u/0?ik=88278c65b2&view=pt&search=all&permthid=thread-f%3A1697677152676806957&simpl=msg-f%3A16976771526...> 1/2

## Exhibit #18-1.2

5/18/2021

Gmail - Alpha Capital, A.G.

Regards,

**Danielle Derrick**

Associate Director

FINRA@Office of the Ombudsman

9509 Key West

Rockville, MD 20850

Tel: (888)700-0028 or (240)386-6270

Fax: (240) 386-6271



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**Thomas Ware** <utware007@gmail.com>  
To: Ombudsman's Office <Ombuds@finra.org>  
Bcc: mydefimatters@gmail.com

Wed, Apr 21, 2021 at 3:56 PM

Thank you for the information.  
[Quoted text hidden]

### 2 attachments

 **image001.png**  
3K

 **image001.png**  
3K

<https://mail.google.com/mail/u/0/?ik=88278c65b2&view=pt&search=all&permthid=thread-f%3A1697677152676806957&simpl=msg-f%3A16976771526...> 2/2



Offices of Ulysses T. Ware  
123 Linden Blvd.  
Suite 9-L  
Brooklyn, NY 11226

Mailed on July 11, 2021  
US v. Ware, 04cr1224 and  
05cr1115. Supp. Memo. of  
law #1 to Dkt. 263 (1115)

**The Hon. Merrick Garland (05cr1115 SDNY)**  
**(#39)**  
**Attorney General of the United States**  
**U.S. Department of Justice**  
**950 Pennsylvania Ave.**  
**Washington, D.C. 20530**



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